

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ETHAN VOLUNGIS, et al.,

Plaintiff(s),

v.

LIBERTY MUTUAL FIRE INSURANCE
COMPANY,

Defendant(s).

Case No. 2:17-CV-2247 JCM (VCF)

ORDER

Presently before the court is the matter of *Volungis et al v. Liberty Mutual Fire Insurance Company*, case number 2:17-cv-02247-JCM-VCF. On July 23, 2018, the court granted Liberty Mutual Fire Insurance Company's ("defendant") motion to dismiss. (ECF No. 28). Farooq Abdulla, Nighat Abdulla, and Ethan Volungis (collectively "plaintiffs") appealed. (ECF No. 30).

The Ninth Circuit held that the court properly granted the motion and dismissed plaintiffs' claims. (ECF No. 32). However, the court also held that "[w]hile [Volungis's] breach-of-contract claim fails as a matter of law, his other claims could be cured through amendment. It was an abuse of discretion to dismiss these claims with prejudice and no justification for doing so [sic]." *Id.* at 5 (citing *Doe v. United States (In re Doe)*, 58 F.3d 494, 497 (9th Cir. 1995)). Consequently, the Ninth Circuit affirmed this court's dismissal of the breach-of-contract claim with prejudice but reversed as to the remaining claims to allow leave to amend. *Id.*

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that plaintiffs are granted leave to amend their complaint, consistent with the Ninth Circuit's memorandum.

1 IT IS FURTHER ORDERED that plaintiffs shall file their amended complaint within 21
2 days of this order.

3 IT IS FURTHER ORDERED that the clerk shall reopen this case when plaintiffs file an
4 amended complaint.

5 IT IS FURTHER ORDERED that failure to comply with this order may result in dismissal
6 of plaintiffs' claims with prejudice.

7 DATED June 12, 2020.

8 
9 UNITED STATES DISTRICT JUDGE